

MINUTES
BEECH MOUNTAIN TOWN COUNCIL
Regular Meeting – October 14, 2014

I. CALL TO ORDER

Mayor Owen called the regular meeting of the Beech Mountain Town Council to order at 4:02 p.m., Tuesday October 14, 2014 in the Town Hall Council Chambers. Other Council Members present were Alan Holcombe, Paul Piquet, Cindy Keller and E. ‘Rick’ Miller. Town Attorney Stacy C. Eggers, IV. was present. Staff members present were Town Manager Randy Feierabend; Town Clerk Jennifer Broderick, Finance Officer Nancy Johnson, Town Planner James Scott, Public Works Director Riley Hatch, Public Utilities Director Robert Heaton, Public Utilities Chief Treatment Plant Operator Daniel Davis, Fire Chief Robert Pudney, and Director of Tourism and Economic Development Leigh Ann Moody.

II. Invocation – Dewey ‘Cyclone’ Brett presented the invocation.

III. Pledge of Allegiance – All present joined in the Pledge of Allegiance to the flag.

IV. Adoption of Agenda – Mayor Owen stated that the agenda would stand as presented.

V. Approval of the Minutes

a. September 9, 2014 Regular Meeting – Councilman Holcombe motioned to approve the September 9, 2014 Regular Meeting Minutes as amended. Vice Mayor Piquet seconded the motion and the vote passed unanimously.

b. September 9, 2014 Closed Session – Councilwoman Keller motioned to approve the September 9, 2014 Closed Session Minutes. Vice Mayor Piquet seconded the motion and the vote passed unanimously.

VI. Public Comment

Wilson King of 1525 Beech Mountain Parkway stated that the Town had lost Lee O’Neil. Mr. King recalled the first time he had met with Mr. O’Neal at a Council meeting, stating that Mr. O’Neil was always a pleasure to converse with. Mr. King stated that there is reality and there is truth. Prior to the Genesis debacle the most embarrassing thing that had occurred up on the mountain was the bankruptcy of Carolina Caribbean. At the gathering together of strong willed individuals on this mountain they were able to turn this area from a bankruptcy resort to an incorporated Town. Mr. King stated that this Genesis case is pulling at the fabric of the community and strongly encouraged the Town and Genesis to ‘kiss and make up.’ Unintended consequences can be very consequential. Mr. King encouraged everyone to stop their foolishness.

Barry Shore of 205 Foxgrape Hollow stated that this was a follow up on a letter that he had sent to Council a week or two ago. Mr. Shore stated that he supported the mission of Genesis and believed Genesis to be an asset of the Town. Mr. Shore stated that the Town pursued the lease with Genesis and was defeated on this measure. Mr. Shore stated that the Council has

decided to push on with the case and appeal. Mr. Shore encouraged the Town to find a common meeting ground. Mr. Shore stated that he read the proposals that staff had created about the animals on the mountain. Mr. Shore stated that there are different and distinct remedies for the raccoons and bears versus the deer issue. Mr. Shore recommended that the Town consider doing away with curbside pickup noting that this would assist with the bear and raccoon issue as well as cutting back on staff.

Carolyn Shore of 205 Foxgrape Hollow stated that she was a Realtor on Beech Mountain. As such she is required to disclose the water and sewer issues on the mountain. Mrs. Shore stated that she was frustrated that the Town spending money on frivolous lawsuits when this money could be used for the water and sewer issues. Mrs. Shore encouraged Council to change their direction.

Alan Brister of 318 Charter Hills Road stated that he was not a full time resident but a lover of Beech Mountain. Mr. Brewster stated that he did not see any of the Council Members in the courthouse in Boone when the case was being tried. Mr. Brewster stated that it looked very bad for the five Council members to continue to pursue the Genesis issue.

Eva Jones of 100 Skiway Unit 5 stated that Susan Miller, of Beech Mountain, passed away on Friday and that she was quite an extraordinary woman. She built a home in Woodland Meadows because of the animals. Mrs. Jones stated that animals are now are being sent off the mountain and euthanized when injured. Mrs. Jones stated that the Town has lost a tremendous asset with the loss of Genesis. Second homeowners understand that there is a cohabitation with Wildlife up here. Mrs. Jones stated that she did not believe that Lees McRae could handle the wildlife that is up here. Mrs. Jones stated that the Town is developing a bad reputation and that there was animosity within Watauga County when the Town approached them for water. Mrs. Jones stated it is time for us as a community to come back together again.

VII. New Business

- a. Resolution to Adopt Avery County Comprehensive Transportation Plan*** – David Graham, Transportation Planner for the High Country Council of Governments, along with Dean Ledbetter, North Carolina Department of Transportation Division 11 Senior Planning Engineer, presented information to Council. Mr. Graham stated that the State recognizes the High Country Council of Government as the lead regional organization for seven counties in the area and the designated agency for Rural Transportation Planning. The Avery County Comprehensive Transportation Plan has been completed with the cooperation of the North Carolina Department of Transportation. Mr. Graham stated that an overview and maps, along with a recommendation memorandum have been provided. Some of the types of projects included are highway projects, new location projects, new widening projects, bicycling projects, and pedestrian projects. Councilman Miller asked how close to becoming reality was the proposed bicycle path coming up Beech Mountain Parkway. Mr. Graham stated that it is going to take a long time, pointing out that some of these plans take decades. All of these projects that are in the Avery County Transportation Plan have yet to be scored by the North Carolina Department of Transportation. Councilwoman Keller stated that there are at least twelve pages of information here and that it suggests that the area may get a bypass around downtown Banner Elk and may get a bypass around downtown Newland. Councilwoman Keller

questioned all of the money that is spent on the Comprehensive Transportation Plan when so little is being put on the table for Avery County. Mr. Graham stated that the first step in getting any funding or potential of improvements for a project is to have that project listed as part of a Comprehensive Transportation Plan. Mayor Owen stated that the required steps must be taken in order to get anything. Councilman Holcombe motioned to adopt the Resolution for the Avery County Comprehensive Transportation Plan. Council Miller seconded the motion and the vote passed unanimously. Resolution No. 2014-08 is attached as Exhibit A and incorporated by reference as if fully set out within these minutes.

- b. *North Carolina Water Operators Association Operator of the Year Daniel Davis*** – Public Utilities Director Robert Heaton stated that Town Chief Treatment Plant Operator, Daniel Davis, was recognized by the North Carolina Waterworks Operators association for ‘*Outstanding B-Surface Operator of the Year for 2014*’ on the 23rd of September 2014. Mayor Owen thanked Mr. Davis for the good work he has been doing for the Town. There was a round of applause for Mr. Davis.
- c. *Water Plant Project Update*** – Benjamin Thomas, P.E. West Consultants stated that the structural plans for the second story have been completed. Remaining parts of the project plans and specifications, such as electrical, heating, concrete reinforcing, and plumbing, are underway and should be completed in October, and then submitted to the North Carolina Department of Natural Resources and United States Department of Agriculture to review. A temporary lime feed system was designed, permitted, and installed at the existing water treatment plant. It is now up and running and has performed well in stabilizing finished water pH. After using it a few weeks it became evident that enough lime will be needed on a monthly basis to justify using the 4,000 gallon tanks inside the old building. These are now being retrofitted to enable their use. The plans for the new water plant are being modified, based on keeping these older tanks in service and pumping the lime from these tanks over to the new plant. Mr. Thomas stated that they are hoping to have a permit by the end of the year and have the project out to bid. Mr. Thomas stated that the project still need Local Government Commission approval and bond counsel.
- d. *Resolution Approving Bond Counsel for Financing of New Water Plant*** – Attorney Eggers stated that Scott Leo, the proposed bond counsel for assisting with financing of the new Water Plant Project, was interviewed and approved by a group from the Town. Vice Mayor Piquet motioned to approve Resolution No. 2014-09 ‘*A Resolution of the Town Council of the Town of Beech Mountain, North Carolina, Approving Bond Counsel for Financing of a New Water Plant.*’ Councilman Holcombe seconded the motion and the vote passed unanimously. Manager Feierabend stated that Scott Leo will be in closed session to answer any legal questions that you have pertaining to the bond application. Resolution No. 2014-09 is attached as Exhibit B and incorporated by reference as if fully set out within these minutes.
- e. *Official Announcement of Financing for Water Plant Project*** – Mayor Owen stated that that the Town of Beech Mountain has been approved by the United States Department of Agriculture for a loan in the amount of \$4,300,000. The total project cost is expected to be \$6,020,000 with a contribution of \$1,720,000 coming from the Town. Mayor Owen

thanked the committee and staff that had assisted with the project. Manager Feierabend stated that he was excited to move forward with the project.

- f. *Solid Waste Franchise Ordinance*** – Mayor Owen stated that the Town had hoped to work with Republic Services through this proposed Solid Waste Franchise Ordinance. Manager Feierabend stated that he met with Jeff McRee, Republic services Northwest Division Manager and Tracy Nestor, Republic Services Mid-Atlantic Municipal Services Manager on October 8, 2014. Manger Feierabend stated that there were issues that Republic Services and staff wished to follow up on. Manager Feierabend asked that Council consider differing this matter to a later date to allow this to happen. Council approved tabling the matter until more information was available.
- g. *Wildlife Study*** – Manager Feierabend stated that he contacted Christopher Kreh, Wildlife Biologist for the North Carolina Wildlife Resources Commission about the Town’s deer population. Manager Feierabend stated that Mr. Kreh informed him that the deer situation on the mountain is, for the most part, exceeding what is coined as the “Social Carrying Capacity” of the area but did not expect any real issues with disease or starvation unless the population increases substantially and exceeds the “Biological Carrying Capacity.” Mayor Owen asked how this was gauged. Manager Feierabend stated that Mr. Kreh has had a lot of similar concerns from other communities. Mr. Kreh stated that the food capacity of Beech Mountain is not anywhere near being reached. Manager Feierabend stated that it was a matter of at what point does the community look at other options. Manager Feierabend explained the way the Town has taken progressive action to deter bears from eating from the dumpsters. Councilwoman Keller asked if there was a way that staff could make this information available to the community.
- h. *Consideration of Donation of Lot BM Westerly Hills 94*** – Mayor Owen stated that Council had before them a request from the landowner to donate Lot BM Westerly Hills 94 to the Town unconditionally. Councilman Miller motioned to accept the donation of Lot BM Westerly Hills 94 contingent on a title search by the Town Attorney. Councilman Holcombe seconded the motion and the vote passed unanimously.

VIII. *Old Business*

- a. *North Carolina Department of Transportation Guardrail Request*** – Manager Feierabend stated that numerous attempts had been made to contact North Carolina Department of Transportation Avery County Maintenance Engineer Jerry Combs by himself and Public Works Director Riley Hatch. Mr. Hatch finally made contact with Mr. Combs. Mr. Combs stated that there is a committee that dispenses the funds required for the guardrails and that Mr. Combs has not heard back from that committee.

IX. *Town Manager, Staff Reports and Council Concerns*

Beech Mountain Parkway Road Striping – Councilman Holcombe asked when the North Carolina Department of Transportation was going to take care of striping the Beech Mountain Parkway. Manager Feierabend stated that he will try to get more information on this when he is discussing the guardrails with them.

Personnel Policy Amendment – Manager Feierabend stated that staff is doing a personnel policy amendment which would add clarity to the Town’s resignation provision to ensure that an employee is covered for their two week notice but that it is at the Town Manager’s discretion on whether an employee will be permitted to work longer than a two week notice.

Beech Mountain Club Banner Request – Manager Feierabend stated that the Beech Mountain Club would like to put up banners to assist with directions for getting to their tennis courts and club house. Manager Feierabend stated that the Beech Mountain Club is requesting that this item be an agenda item for Council’s consideration at their November meeting.

Personnel Study – Manager Feierabend provided Council with the estimated cost that The MAPS Group said they could provide a personnel study for plus actual expenses for mileage, meals, lodging, and printing. Vice Mayor Piquet asked what the Town paid 5 years ago. Manager Feierabend stated that this amount included other services. Vice Mayor Piquet motioned to move forward with doing the study. Councilman Holcombe seconded the motion. Manager Feierabend stated that he will move forward with getting quotes from other entities. Manager Feierabend stated that the earliest The MAPS Group would be available would be March. Mayor Owen asked if Vice Mayor Piquet would consider amending his motion. Vice Mayor Piquet amended his motion to move forward with getting quotes for the personnel study. Councilman Holcombe seconded the motion and the vote passed unanimously.

Care Trak Equipment – Manager Feierabend stated that the Police Department now has the Care Trak Equipment for their Elderly Care Program. Staff is awaiting training dates so that staff can start using the equipment.

Emerald Outback Trail Update – Councilman Miller asked if everyone had read the update status report in the agenda packet about the Emerald Outback Trail. Town Planner James Scott informed Council that the contractor has assured staff that they will be finished by the middle of November. Once they are finished a final inspection will then be performed by the State. The State has already been to the site three times to look at the work being completed.

Mayor Owen stated that Council would take a short break at 5:08 p.m.

- X. **Closed Session – Pursuant to NC GS 143-318.11(a)(3) Attorney Client Matters; NC GS 143-318.11(a)(6) Personnel Matters** – Upon motion by Vice Mayor Piquet at 5:26 p.m., seconded by Councilman Holcombe the Council voted unanimously to go into closed session pursuant to NC GS 143-318.11(a)(3) for Attorney Client Matters, including Beech Mountain v. Genesis Wildlife Sanctuary; NC GS 143-318.11(a)(6) for Personnel Matters. Councilman Miller motioned to exit closed session at 6:20 p.m., which was seconded by Councilman Holcombe. The motion passed unanimously.

XI. **Other Business**

Surplus Service Revolver – Councilman Miller motioned for staff to surplus Jerry Turbyfill’s service revolver for \$1. Councilman Holcombe seconded the vote passed unanimously.

XII. Adjourn – Vice Mayor Piquet motioned to adjourn the meeting at 6:21 p.m., which was seconded by Councilman Holcombe. The motion passed unanimously. The meeting was adjourned 6:21 p.m.

Minutes approved by Town Council on November 12, 2014.

Richard H. Owen, Mayor

ATTEST:

Jennifer Broderick, CMC
Town Clerk

**ATTACHMENT(S)
TO
MINUTES**

EXHIBIT A – Resolution No. 2014-08: Resolution to Adopt Avery County
Comprehensive Transportation Plan

EXHIBIT B – Resolution No. 2014-09: Resolution Approving Bond Counsel for
Financing of New Water Plant

RESOLUTION No. 2014-08

TOWN OF BEECH MOUNTAIN

**RESOLUTION ADOPTING A
COMPREHENSIVE TRANSPORTATION PLAN
FOR THE TOWN OF
BEECH MOUNTAIN, NORTH CAROLINA**

The following resolution was offered by Councilman Holcombe seconded by Councilman Miller, and upon being put to a vote, was carried 5 - 0 on the 14th day of October, 2014.

WHEREAS, the Town of Beech Mountain and the Transportation Planning Branch, North Carolina Department of Transportation actively worked to develop a transportation plan for Avery County; and

WHEREAS, the Town and the Department of Transportation are directed by North Carolina General Statutes 136-66.2 to reach agreement for a highway system that will serve present and anticipated volumes of vehicular traffic in and around the town; and

WHEREAS, it is recognized that the proper movement of traffic within and through the town of Beech Mountain is highly desirable element of the comprehensive plan for the orderly growth and development of the town; and

WHEREAS, after full study of the plan following public involvement the Town Council of Beech Mountain feels it to be in the best interests of Beech Mountain to adopt a plan pursuant to General Statutes 136-66.2;

NOW THEREFORE, BE IT RESOLVED: That the Avery County Comprehensive Transportation Plan as shown on the attached map dated August 25, 2014 be approved and adopted as a guide in the development of the highway system in Avery County and the same is hereby recommended to the North Carolina Department of Transportation for its subsequent adoption:

Richard H. Owen, Mayor

I, Jennifer Broderick, Town Clerk of the Town of Beech Mountain, North Carolina, hereby certify that the above is a true and correct copy of the excerpts from the minutes of the Town Council meeting of said town. WITNESS my hand and the official seal of the Town of Beech Mountain this the 14th day of October, 2014.

ATTEST

(Seal)

Jennifer Broderick, CMC

Resolution No. 2014-09

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF BEECH MOUNTAIN,
NORTH CAROLINA, APPROVING BOND COUNSEL FOR FINANCING OF A NEW
WATER PLANT**

WHEREAS, the Town Council (the "*Council*") of the Town of Beech Mountain, North Carolina (the "*Town*") has determined to proceed with financing a new water plant (the "*Financing*").

WHEREAS, the Financing will be completed in two parts, an interim financing with a financial institution to finance the construction of the new water plant and, after the completion of construction, a long-term financing with United States Department of Agriculture;

WHEREAS, the Council has determined to retain Parker Poe Adams & Bernstein LLP, as bond counsel for the Financing;

NOW, THEREFORE BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF BEECH MOUNTAIN, NORTH CAROLINA, AS FOLLOWS:

Section 1. That Parker Poe Adams & Bernstein LLP shall hereby be retained to serve as bond counsel for the Financing under the terms of the engagement letter presented to the Town.

Section 2. That this Resolution shall become effective on the date of its adoption.

On motion of Vice Mayor Piquet, seconded by Councilman Holcombe, the foregoing resolution entitled "A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF BEECH MOUNTAIN, NORTH CAROLINA, APPROVING BOND COUNSEL FOR FINANCING OF A NEW WATER PLANT" was duly adopted by the following vote:

AYES: 5

NAYS: 0

Richard H. Owen, Mayor

STATE OF NORTH CAROLINA)
)
COUNTY OF AVERY) ss:

I, Jennifer Broderick, Town Clerk of the Town of Beech Mountain, North Carolina, ***DO HEREBY CERTIFY*** that the foregoing is a true and exact copy of a resolution entitled “**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF BEECH MOUNTAIN, NORTH CAROLINA, APPROVING BOND COUNSEL FOR FINANCING OF A NEW WATER PLANT**” adopted by the Town Council of the Town of Beech Mountain, North Carolina, at a meeting held on the 14th day of October, 2014.

WITNESS my hand and the corporate seal of the Town of Beech Mountain, North Carolina, this the 14th day of October, 2014.

Town Clerk
Town of Beech Mountain, North Carolina